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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

In re: Stephen J.R. Goetz and Diana  
Goetz,

Debtors.

John Challas,

Plaintiff,

v.

Steven Goetz, and DOES 1 through 20,  
Inclusive,

Defendants.

Chapter 11

Case No. C-07-06364 RMW

[Bankruptcy Case No. 05-57623 MM  
Adversary Proceeding No. 06-5197  
BAP No. NC-07-1418]

**APPELLEE/PLAINTIFF JOHN CHALLAS' STATUS  
CONFERENCE STATEMENT**

Date: April 18, 2008

Time: 10:30 a.m.

Judge: Hon. Ronald M. Whyte

On October 19, 2007, and following a day-long evidentiary hearing which occurred on July 13, 2007, the Bankruptcy Court for the Northern District of California, the Honorable Marilyn Morgan presiding, signed an Order ruling that Appellee/Plaintiff John Challas' ("Mr. Challas") cause of action for slander against Appellant/Defendant Stephen Goetz ("Goetz") was non-dischargeable. Said Order

1 was entered on the Bankruptcy Court's docket on October 22, 2008.

2 On November 1, 2007, Goetz, who is proceeding in pro per, appealed the October 19, 2007  
3 Order.

4 On November 1, 2007, Goetz, pursuant to **FRBP 8006**, also designated the entire docket for the  
5 underlying adversary proceeding to be included in the record on appeal, including the transcripts for  
6 hearings dated June 12 and July 13, 2007. In so doing, Goetz, pursuant to **FRBP 8006**, was required to  
7 immediately deliver to the reporter and file with the clerk a written request for the transcripts and make  
8 satisfactory arrangements for payment of its costs. Goetz failed to perform these acts and has not taken  
9 any steps to cure the same.

10 On November 6, 2007, this Court referred Goetz's appeal to the Bankruptcy Appellate Panel  
11 ("BAP"). On November 13, 2007, the BAP transmitted to the parties its opening letter which indicated  
12 that Goetz had failed to transmit a copy of the order from which Goetz is appealing.

13 On November 26, 2007, Mr. Challas filed an objection to Goetz's appeal being heard and  
14 determined by the BAP. The appeal was thereafter transferred to this Court and assigned to the  
15 Honorable Ronald M. Whyte.

16 On December 17, 2007, this Court set this appeal for an April 18, 2008 status conference  
17 pending the parties' perfection of the record on appeal. Upon the filing of the record on appeal, this  
18 Court was to vacate the April 18, 2008 status conference at which time a briefing schedule would  
19 issue.

20 On January 10, 2008, Mr. Challas filed a case management conference ("CMC") statement in  
21 the Bankruptcy Court in connection with a CMC which was set to occur on January 15, 2008. Mr.  
22 Challas' CMC statement recited the aforementioned facts, including that Goetz had failed to comply  
23 with **FRBP 8006** or to otherwise perfect his appeal rendering his appeal subject to dismissal. Mr.  
24 Challas also indicated that this Court had set the appeal for an April 18, 2008 status conference.

25 Goetz failed to file any CMC statement in connection with the January 15, 2008 CMC.  
26 Ultimately, Judge Morgan continued the Bankruptcy Court's CMC until December 9, 2008 pending  
27 the outcome of Goetz's appeal before this Court.

1 It is presently unknown whether Goetz intends to prosecute this appeal or to perfect the record.  
 2 In that Goetz has failed to perfect his appeal, which has now been pending for five months, it would  
 3 appear that the dismissal of Goetz's appeal is now eminently appropriate. See, e.g., Greco v.  
 4 Stubenberg (BAP 9<sup>th</sup> Cir. 1988) 859 F.2d 1401, 1404 [an appellant's failure to take steps required to  
 5 prosecute appeal, including failing to make a timely request for a transcript, is grounds for dismissal];  
 6 In re McCarthy (BAP 9<sup>th</sup> Cir. 1999) 230 B.R. 414, 417 [**FRBP 8006** requires, as mandatory, that an  
 7 appellant designate a record that includes both any opinion, findings of fact and conclusions of law of  
 8 the court, and any transcript that will be needed; failure to do so is grounds for dismissal]; In re  
 9 Winslow (D. Colo. 1990) 121 B.R. 598, 599 [appellant's failure to designate crucial portions of  
 10 transcript constitutes grounds for dismissal].

11 Dismissal is especially appropriate, and requested, since Mr. Challas informed Goetz of the  
 12 aforementioned deficiencies months ago by way of his January 10, 2008 CMC statement filed in the  
 13 Bankruptcy Court. Notwithstanding, Goetz has taken no action to perfect the record on his appeal or  
 14 to procure the crucial transcripts required by this Court.

15  
 16  
 17 Dated: April 3, 2008

ELLIS, COLEMAN, POIRIER, LAVOIE, &  
 STEINHEIMER LLP

18  
 19 By   
 20 Daniel D. McGee  
 21 Co-Counsel for JOHN CHALLAS  
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**CERTIFICATE OF SERVICE**

I, Nichole M. Pruitt declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 555 University Avenue, Suite 200 East, Sacramento, CA 95825.

On April 3, 2008, I served the following document(s) on the parties in the within action:

**APPELLEE/PLAINTIFF JOHN CHALLAS' STATUS CONFERENCE STATEMENT**

<b>X</b>	<b>BY MAIL:</b> I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at Sacramento, CA on this date, addressed as follows:
<b>X</b>	<b>VIA ELECTRONIC SERVICE:</b> The above-described document(s) will be delivered electronically through the Court's ECF/PACER electronic filing system, as stipulated by all parties to constitute personal service, to the following:

Stephen Goetz  
13725 Robleda Road  
Los Altos, CA 94022  
**(Via U.S. Mail)**

Debtor In Pro Per

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**(Via Electronic Service)**

Co-Counsel for John Challas

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**(Via U.S. Mail)**

Co-Counsel for John Challas

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on April 3, 2008.

By   
Nichole M. Pruitt